

REMARKS

The Office Action mailed April 5, 2005 has been received and reviewed. Claims 1-11 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. This rejection appears to have been accidentally carried over from the previous Office Action, as the “permanently” terminology objected to in the present Office Action was removed from Claims 1 and 8 by the Response and Amendment submitted February 16, 2005.

Claims 1-11 also stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,488,547 to Mason in view of U.S. Patent No. 6,671,886 to Reitz. Applicant respectfully traverses and requests reconsideration. The Mason reference discloses a face mask having an “anhydrous hygroscopic layer”, that is initially not visible, and which only becomes visible by means of a coloration change that occurs upon absorption of a sufficient quantity of moisture from the wearer’s breath. See Mason ‘547, Column 2, lines 49-55. By contrast, and as explained in greater detail in applicant’s prior response, the presently claimed invention is directed to provision of a respiratory mask having a display originally visible on its outer surface.

Reitz discloses a decorative face mask for use at sporting events. The mask is “specifically adapted to conveniently engage a rear portion of a conventional head-wear such as a sports cap.” Column 1, lines 60-62. This arrangement “allows the face mask to be carried upon the head-wear and disposed about the rear of a user’s neck during the sporting event”, and “[w]hen desired to promote fan and/or sports rally motivation, the face mask may be readily positioned over the face through a simple reversal of the headwear.” Column 1, line 63 through column 2, line 1.

One of ordinary skill in the art clearly would not be motivated to combine the teachings of the Mason and Reitz reference in the manner suggested. As a threshold matter, there is absolutely no suggestion in either reference or in any other art of record for

the asserted combination. Nor does the Examiner point to any motivation for the asserted combination, other than the bald assertion that it would have been obvious to modify Mason by providing a display per Reitz "in order to provide important information or provide entertainment to the patient". But there is no suggestion in either reference of any reason or need for displaying a sports team logo (as per Reitz) on a surgical mask (as per Mason), or for rallying fans or participants (as per Reitz) during a medical procedure (as per Mason). Accordingly, other than through the use of improper hindsight reconstruction based on the applicant's own disclosure, the art of record does not disclose or suggest the presently claimed invention.

One skilled in the art would not look to such disparate fields of endeavor to combine features in the manner proposed. Mason is directed to a surgical-type face mask for preventing contamination during medical procedures, whereas Reitz is directed to a decorative face mask for use in encouraging sports fans and participants during sporting events. And the Reitz mask is typically attached to a baseball cap and worn on the back of the head until such time as the wearer feels the need to rally other fans or participants in a sporting event (column 3, lines 36-45), and then reversed to cover part of the wearer's face; whereas the mask of Mason is solely intended for use over the face. Because of these very different modes of application, in clearly non-analogous fields of endeavor, one skilled in the art would not seek to modify and combine elements of the references as proposed.

And the Mason and Reitz references themselves, in fact, teach away from any combination of their disclosures. For example, the mask of Reitz "does not extend over the user's mouth" (column 3, lines 33-35; column 4, lines 31-32; column 5, lines 60-63), and "a pair of nose holes . . . may be optionally provided through the mask body" (column 6, lines 9-12). By contrast, the Mason mask is adapted to fit almost entirely over the mouth and nose areas of the user (column 1, lines 49-52, and Fig. 3). Accordingly, one skilled in the

art would consider the teaching of Reitz to be generally incompatible with that of Mason, and would not seek to import elements of one into the other.

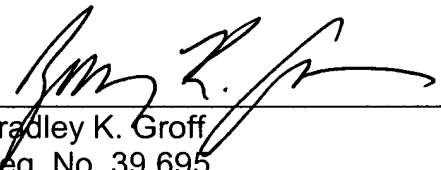
Moreover, to apply a permanently visible display such as taught by Reitz onto the outer face of the Mason face mask, as suggested by the Examiner, would almost certainly render the Mason face mask inoperable to achieve the primary stated objective of the Mason reference. Any permanently visible display on the mask's outer surface would likely obscure (or at the very least would substantially detract attention from) the coloration change of Mason's "anhydrous hygroscopic layer" that becomes visible upon absorption of a sufficient quantity of moisture from the wearer's breath. Thus, the user would not be prompted to replace the mask upon depletion of its effectiveness, as is Mason's primary stated objective.

Thus, the presently claimed invention would not have been obvious to one of ordinary skill in the art at the time the invention was made.

CONCLUSION

In view of the above comments, it is believed that all grounds of rejection are overcome and that the application has now been placed in full condition for allowance. Accordingly, Applicant earnestly solicits early and favorable action. Should there be any further questions or reservations, the Examiner is urged to telephone Applicant's undersigned attorney at (770) 984-2300.

Respectfully submitted,



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